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PTO/SB/65 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)
LJO-18

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

RECEIVED

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OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at
(571) 272-3282.

Patent Number: 5,897,560Application Number: 08/840,548Issue Date: 04/27/1999Filing Date: 04/03/1997

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

- ☐ is a reissue of original Patent No. _____ original issue date _____
original application number _____
original filing date _____
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____

2010 DEC 30 PM 4:09

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

12/21/2010

Date

Signature

Raymond Wagenknecht

Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input checked="" type="checkbox"/> \$ 1,240	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input checked="" type="checkbox"/> \$ 2,055	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 3,295

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 700

5. MANNER OF PAYMENT

- ☒ Enclosed is a check for the sum of \$ 3,995
- ☐ Please charge Deposit Account No. _____ the sum of \$ _____.
- ☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

- ☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 504352

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 504352

OR

☐ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

12/21/2010

Date

Raymond Wagenknecht, Attorney of record

Typed or printed name(s)

50,948

Registration Number, if applicable

5677 Oberlin Drive, Ste 204

Address

858-587-2510 x 201

Telephone Number

San Diego, CA 92121

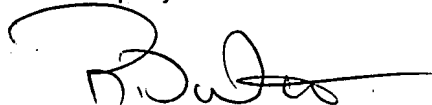
Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☒ Other: Postcard

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

12/21/2010

Date

Raymond Wagenknecht

Type or printed name

50,948

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

Please see attached declaration

(Please attach additional sheets if additional space is needed)



Patent
Attorney Docket No: LJO-18

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
)
Lanny L. Johnson)
)
Patent Number: 5,897,560)
)
Filed: 04/03/1997)
)
For: METHOD AND APPARATUS FOR)
FORMING A CENTERED BORE FOR)
THE FEMORAL STEM OF HIP)
PROSTHESIS)
_____)

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JAN 12 2011
OFFICE OF PETITIONS

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313

**Declaration in Support of Petition to Accept Unavoidably Delayed Payment of
Maintenance Fee in an Expired Patent**


1. I, the undersigned, am the Assignee of the entire right, title and interest of US Patent Serial No. 5,897,560 (the '560 Patent) as demonstrated on the attached statement under 37 CFR § 3.73(b).
2. To ensure the '560 Patent remained in force throughout its term I appointed registered patent attorney Mr. W.D Swayze, Jr. Reg. No. 34478 (Attorney Swayze) on or about 6/14/2006 as the attorney of record and as the official correspondence address for the '560 Patent.
3. I have always intended for the '560 Patent to remain valid through payment of any USPTO maintenance fees deemed necessary.

4. I was not notified by Attorney Swayze that a maintenance fee was due between 04/27/2006 and 10/28/2006.
5. I was not notified by Attorney Swayze of the expiration of the '560 Patent.
6. I was not directly notified by the USPTO of the expiration of the '560 Patent.
7. On December 16, 2010 I assembled and provided a listing of issued U.S. Patents, of which I am the Assignee, to registered patent attorney, Mr. Raymond Wagenknecht, Reg. No. 50948 (Attorney Wagenknecht) by electronic mail (email). The '560 Patent was provided in this listing.
8. At the time of providing the above listing to Attorney Wagenknecht, I believed the '560 Patent to be in force.
9. Upon Attorney Wagenknecht's suggestion by return email, I requested the status of each patent provided in the listing to be verified with USPTO records.
10. I was notified and first learned of the expiration of the '560 Patent due to nonpayment of a maintenance fee on December 16, 2010 by Attorney Wagenknecht's report.
11. Within 24 hours of being notified of the expiration of the '560 Patent I requested Attorney Wagenknecht act as attorney of record for the '560 Patent and prepare a petition to accept an unavoidably delayed payment of maintenance fee for the '560 Patent.
12. I believe I acted reasonably to ensure all maintenance fees would be paid timely by designating a registered patent attorney to serve as my agent for notification of any such due dates, and I believe I have acted promptly after receiving my first actual notice of the expiration of the '560 Patent to ensure payment of all fees necessary and to pursue the accompanying petition.

13. I declare under penalty of perjury that the foregoing is true and correct, that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the '560 Patent or any patent issuing thereon.

Respectfully submitted,

12-10-2010
Date


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(517) 285-1812